CHAPTER 1: GENERAL APPLICABILITY

1.1 INTRODUCTION

The purpose of this chapter is to help you determine if you are subject to Part 68, the risk management program rule. Part 68 covers you if you are:

- ✦ The owner or operator of a stationary source
- ✦ That has more than a threshold quantity
- ✦ Of a regulated substance
- ✦ In a process.

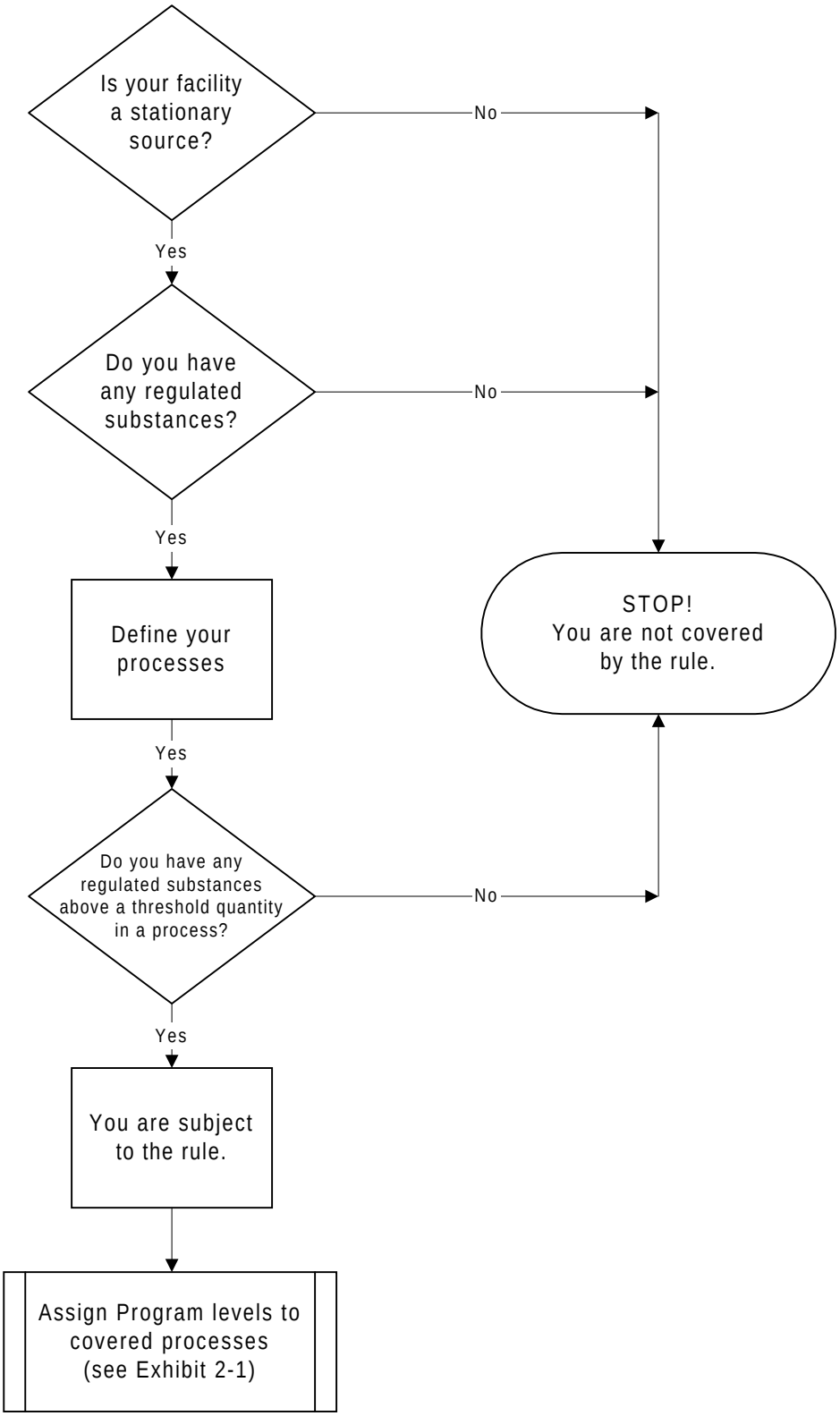
The goal of this chapter is to make it easy for you to identify processes that are covered by this rule so you can focus on them.

This chapter walks you through the key decision points (rather than the definition items above), starting with those provisions that may tell you that you are not subject to the rule. We first outline the general applicability provisions and the few exemptions and exclusions, then discuss which chemicals are "regulated substances." If you do not have a "regulated substance" at your site, you are not covered by this rule. The exemptions may exclude you from the rule or simply exclude certain activities from consideration. (Throughout this document, when we say "rule" we mean the regulations in part 68.)

We then describe what is considered a "process," which is critical because you are subject to the rule *only* if you have more than a threshold quantity in a process. The chapter next describes how to determine whether you have more than a threshold quantity.

Finally, we discuss how you define your overall stationary source and when you must comply. These questions are important once you have decided that you are covered. For most facilities covered by this rule, the stationary source is basically all covered processes at your site. If your facility is part of a site with other divisions of your company or other companies, the discussion of stationary source will help you understand what you are responsible for in your compliance and reporting. Exhibit 1-1 presents the decision process for determining applicability.

EXHIBIT 1-1
EVALUATE FACILITY TO IDENTIFY COVERED PROCESSES



1.2 GENERAL PROVISIONS

The CAA applies this rule to any person who owns or operates a stationary source. "Person" is defined to include

"An individual, corporation, partnership, association, State, municipality, political subdivision of a state, and any agency, department, or instrumentality of the United States and any officer, agency, or employee thereof."

The rule, therefore, applies to all levels of government as well as private businesses.

CAA section 112(r)(2)(c) defines "stationary sources" as:

"Any buildings, structures, equipment, installations, or substance emitting stationary activities

- ✦ Which belong to the same industrial group,
- ✦ Which are located on one or more contiguous properties,
- ✦ Which are under the control of the same person (or persons under common control), and
- ✦ From which an accidental release may occur."

EPA has added some language in the rule to clarify issues related to transportation (see below).

FARMS

The rule has only one exemption: for ammonia when held by a farmer for use on a farm. This exemption applies to ammonia only when used as a fertilizer by a farmer. It does not apply to agricultural suppliers or the fertilizer manufacturer.

TRANSPORTATION ACTIVITIES

Transportation containers used for storage not incident to transportation and transportation containers connected to equipment at a stationary source are considered part of the stationary source. Transportation containers that have been unhooked from the motive power that delivered them to the site (e.g., truck or locomotive) and left on your site for short-term or long-term storage are part of your stationary source. For example, if you have railcars on a private siding that you use as storage tanks, these railcars should be considered to be part of your source. If a tank truck is being unloaded **and** the motive power is still attached, the truck and its contents are considered to be in transportation and not covered by the rule. You should count only the substances in the piping or hosing as well as quantity unloaded. Some issues related to transportation are still under discussion with DOT.

QS & AS
STATIONARY SOURCE

Q. What does "same industrial group" mean?

A. Operations at a site that belong to the same three-digit North American Industry Classification System (NAICS) code (which has replaced the old two-digit SIC codes) belong to the "same industrial group. In addition, where one or more operations at the site serve primarily as support facilities for the main operation at the site, the supporting operations are part of the "same industrial group" as the main operation.

Q. What does "contiguous property" mean?

A. Property that is adjoining. Public rights-of-way (e.g., railroads, highways) do not prevent property from being considered contiguous. Property connected only by rights-of-way are not considered contiguous (e.g., two plants with a connecting pipeline).

Q. What does "control of the same person" mean?

A. Control of the same person refers to corporate control, not site management. If two divisions of a corporation operate at the same site, even if each operation is managed separately, they will count as one source provided the other criteria are met because they are under control of the same company.

RELATIONSHIP TO OSHA PROCESS SAFETY MANAGEMENT STANDARD EXEMPTIONS

The OSHA Process Safety Management (PSM) standard exempts substances used solely as a fuel if such substances are not part of a process containing another regulated substance and flammable substances stored in atmospheric storage tanks. (Other OSHA exemptions are not relevant to warehouses.) The OSHA exemptions do not apply or extend to EPA's Risk Management Program Rule. Your processes are not exempt from the Risk Management Program simply because they qualify for one of the OSHA exemptions. Consequently, EPA covers substances used as fuel and substances stored in atmospheric storage tanks if there is more than a threshold quantity in a process.

1.3 REGULATED SUBSTANCES AND THRESHOLDS

The list of substances regulated under § 68.130 is in Appendix A. Check the list carefully. If you do not have any of these substances (either as pure substances or in mixtures above 1 percent concentration) or do not have them above their listed threshold quantities, you do not need to read any further.

The list includes 77 chemicals that were listed because they are acutely toxic; they can cause serious health effects or death from short-term exposures. The list also covers 63 flammable gases and highly volatile flammable liquids. The flammable chemicals have the potential to form vapor clouds and explode or burn if released.

The rule also covers flammable mixtures that include any of the listed flammables if the mixture meets the criteria for the National Fire Protection Association's (NFPA) 4 rating.

1.4 WHAT IS A PROCESS

The concept of "process" is key to whether you are subject to this rule. Process is defined as:

"Any activity involving a regulated substance, including any use, storage, manufacturing, handling or on-site movement of such substances or any combination of these activities. For the purposes of this definition, any group of vessels that are interconnected, or separate vessels that are located such that a regulated substance could be involved in a potential release shall be considered a single process."

"Vessel" means a reactor, tank, drum, barrel, cylinder, vat, kettle, boiler, pipe, hose, or other container.

The definition of process is identical to the definition of process under the OSHA PSM standard. It is important in determining whether you have a threshold quantity of a regulated substance and what the level of requirements you must meet if the process is covered.

What does this mean to you?

- ✦ If you store a regulated substance in a single vessel in quantities above the threshold quantity, you are covered.
- ✦ If you have interconnected vessels that altogether hold more than a threshold quantity, you are covered. The connections need not be permanent. If two or more vessels are connected occasionally, they are considered a single process for the purposes of determining whether a threshold quantity is present.
- ✦ If you have multiple unconnected vessels, containing the same substance, you will have to determine whether they need to be considered together.

WAREHOUSES AS A SINGLE PROCESS

Because warehouses usually consist of one large storage area, even if subdivided, and because you are likely to have the same prevention practices for the entire warehouse, you may want to consider the warehouse building a single process. You are not required to treat the warehouse as a single process; if the storage areas for regulated substances are widely separated and do not meet the criteria for co-location discussed below, you may treat each area separately. If you store chemicals outside the warehouse, they may be considered a separate process. The issue you will have to decide is whether you have more than a threshold quantity of a regulated substance to determine whether your warehouse building is a covered process. Co-location, discussed below, will probably be the key issue in determining whether

your warehouse is a covered process and, if so, which chemicals must be included in your risk management program.

SINGLE VESSELS

As a warehouse, you are unlikely to have a single storage tank of any regulated substance holding more than a threshold quantity unless you are using propane as a fuel or repackage chemicals. If you have a tank and it is the only place you have a regulated substance, you need not worry about the other possibilities for defining a process and can skip to the next section.

CO-LOCATION

You must consider whether you have separate vessels that contain the same regulated substance that are located such that they could be involved in a single release. If so, you must add together the total quantity in all such vessels to determine if you have more than a threshold quantity. This possibility will be particularly important if you store a regulated substance in cylinders or barrels or other containers in a warehouse or outside in a rack. In some cases, you may have two vessels or systems that are in the same building or room. For each of these cases, you should ask yourself:

- ✦ Would a release from one of the containers lead to a release from the other? For example, if a cylinder of propane were to rupture and burn, would the fire spread to other propane cylinders?

- ✦ Would an event external to the containers, such as a fire or explosion, have the potential to release the regulated substance from multiple containers?

You must determine whether there is a credible scenario that could lead to a release of a threshold quantity.

For flammables, you should consider the distance between vessels. If a fire could spread from one vessel to others or an explosion could rupture multiple vessels, you must count all of them. For toxics, a release from a single vessel will not normally lead to a release from others unless the vessel fails catastrophically and explodes, sending metal fragments into other vessels. Co-located vessels containing toxic substances, however, may well be involved in a release caused by a fire or explosion that occurs from another source. The definition of process is predicated on the assumption that explosion will take place. In addition, a collapse of storage racks could lead to multiple vessels breaking open.

If the vessels are separated by fire walls or barricades or by group occupancy rooms that will contain the blast waves from explosions of the substances, you will not need to count the separated vessels, but you may have to count any that are in the same room if a fire could spread to involve all of the containers.

You may not dismiss the possibility of a fire spreading based on an assumption that your fire department will be able to prevent any spread. You should ask yourself

how far the fire would spread if the worst happens — the fire department is slow to arrive, the water supply fails, or the fire department decides it is safer to let the fire burn itself out. If you have vessels that, when taken together, could release more than a threshold quantity in such worst-case circumstances, you should count them as a single process. At a warehouse, you will probably want to consider the nature of the other material stored. If the other materials are flammable or combustible and likely to feed a fire, you may need to be conservative in estimating how far a fire could spread. If the other materials are not combustible, a fire may be confined to part of a room.

INTERCONNECTED VESSELS

Interconnection is unlikely to be applicable to warehouses. In general, if you have two or more vessels that contain a regulated substance and are connected through piping or hoses for the transfer of the regulated substance, you must consider the total quantity in all the connected vessels and piping when determining if you have a threshold quantity in a process. If the vessels are connected for transfer of the substance using hoses that are then removed, you still have to consider the contents of the vessels as one process, because if one vessel were to rupture while the hose was attached or the hose were to break during the transfer, you could lose the total quantity in both tanks. Therefore, you must count the quantities in both tanks and in any connecting piping or hoses. You cannot consider the presence of automatic shutoff valves or other devices that can limit flow, because these are assumed to fail for the purpose of determining the total quantity in a process.

PROCESSES WITH MULTIPLE CHEMICALS

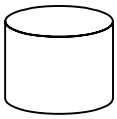
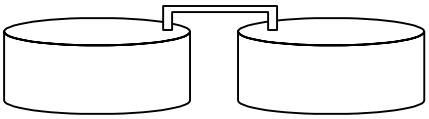
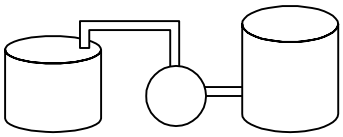
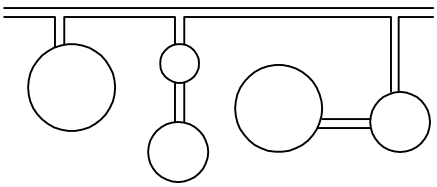
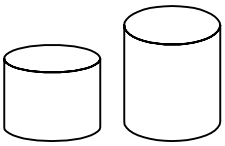
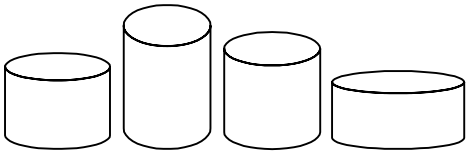
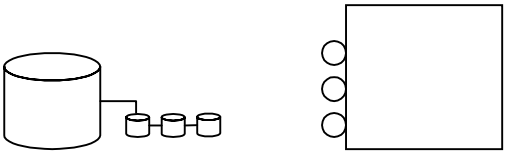
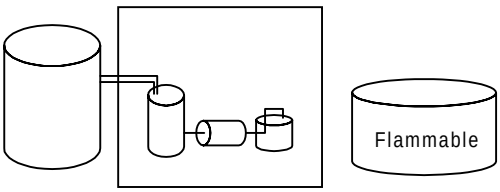
When you are determining whether you have a covered process, you should not limit your consideration to units that have the same regulated substance. A covered process includes any units that hold more than a threshold quantity of regulated substances and that are interconnected or co-located. Therefore, if you have four storage or reactor vessels holding four different regulated substances above their individual thresholds and they are located close enough to be involved in a single event, they are considered a single process. One implication of this approach is that if you have two vessels, each containing slightly less than a threshold quantity of the same regulated substance and located a considerable distance apart, and you have other storage or process vessels in between with other regulated substances above their thresholds, the vessels with the first substance may be part of the process involving the other vessels and other regulated substances, based on co-location.

Exhibit 1-2 provides illustrations of what may be defined as a process.

DIFFERENCES WITH OSHA

OSHA aggregates different flammable liquids across vessels in making threshold determinations; OSHA also aggregates different flammable gases (but does not aggregate flammable liquids with flammable gases); EPA aggregates neither. Therefore, if you have three co-located or connected reactor vessels each containing

EXHIBIT 1-2: PROCESS

Schematic Representation	Description	Interpretation
	1 vessel 1 regulated substance above TQ	1 process
	2 or more connected vessels *same* regulated substance above TQ	1 process
	2 or more connected vessels *different* regulated substances each above TQ	1 process
	pipeline feeding multiple vessels total above TQ	1 process
	2 or more vessels co-located *same* substance total above TQ	1 process
	2 or more vessels co-located *different* substances each above TQ	1 process
	2 vessels, located so they won't be involved in a single release *same* or *different* substances each above TQ	2 processes
	2 locations with regulated substances each above TQ	1 or 2 processes depending on distance
	1 series of interconnected vessels *same* or *different* substances above TQs *plus* a co-located storage vessel containing flammables	1 process

5,000 pounds of a different flammable liquid, OSHA considers that you have 15,000 pounds of flammable liquids and are covered by the PSM standard. Under EPA's rule, you would not have a covered process because you do not meet the threshold quantity for any one of the three substances. OSHA, like EPA, does not aggregate quantities for toxics as a class (i.e., each toxic substance must meet its own threshold quantity).

1.5 THRESHOLD QUANTITY IN A PROCESS

The threshold quantity for each regulated substance is listed in Appendix A. You should determine whether the maximum quantity of each substance in a process is greater than the threshold quantity listed. If it is, you must comply with this rule for that process. Even if you are not covered by this rule, you may still be subject to reporting requirements under the Emergency Planning and Community Right to Know Act (EPCRA).

QUANTITY IN A VESSEL

To determine if you have the threshold quantity of a regulated substance in a vessel involved in a single process, you need to consider the maximum quantity in that vessel at any one time. You do not need to consider the vessel's maximum capacity if you never fill it to that level. Base your decision on the actual maximum quantity that you may have in the vessel. Your maximum quantity may be more than your normal operating maximum quantity; for example, if you may use a vessel for emergency storage, the maximum quantity should be based on the quantity that might be stored.

AGGREGATION OF SUBSTANCES

A toxic substance is never aggregated with a different toxic substance to determine whether a threshold quantity is present. If your process consists of co-located vessels with different toxic substances, you must determine whether each substance exceeds its threshold quantity.

A flammable substance in one vessel is never aggregated with a different flammable substance in another vessel to determine whether a threshold quantity is present. However, if a flammable mixture meets the criteria for NFPA-4 and contains different regulated flammables, it is the mixture, not the individual substances, that is considered in determining if a threshold quantity is present.

"At any one time" means you need to consider the largest quantity that you ever have in the vessel. If you fill a tank with 50,000 pounds and immediately begin using the substance and depleting the contents, your maximum is 50,000 pounds.

If you fill the vessel four times a year, your maximum is still 50,000 pounds. Throughput is not considered because the rule is concerned about the maximum quantity you could release in a single event.

QUANTITY IN A PIPELINE

The maximum quantity in a pipeline will generally be the capacity of the pipeline (volume). In most cases, pipeline quantity will be calculated and added to the interconnected vessels.

INTERCONNECTED/CO-LOCATED VESSELS

If your process consists of two or more interconnected vessels, you must determine the maximum quantity for each vessel and the connecting pipes or hoses. The maximum for each individual vessel and pipe is added together to determine the maximum for the process.

If you have determined that you must consider co-located containers as one process, you must determine the maximum quantity for each container and sum the quantities of all such containers.

Qs and As
THRESHOLD DETERMINATIONS

Q. I store several different flammable liquids and products that contain flammable liquids. Do I combine them or consider each separately?

A. You must estimate the quantity of each separate listed flammable liquid.

Q. How far apart do containers have to be to be considered different processes?

A. There is no hard and fast rule for how great this distance should be before you do not need to consider the vessels as part of one process. Two containers at opposite ends of a large warehouse room might have to be considered as one process if the entire warehouse or room could be engulfed in a fire. Two containers separated by the same distance out of doors might be far enough apart that a fire affecting one would be unlikely to spread to the other. At a warehouse, the nature of the other materials stored should be considered; if containers are widely separated by other materials that could slow a fire's spread, the distance required to consider the containers separate processes will be much shorter than if most of the warehouse's contents are combustible. You may want to consult with your local fire department. You should then use your best professional judgment. Ask yourself how much of the regulated substance could be released if the worst happens (you have a major fire, an explosion, a natural disaster).

QUANTITY OF A SUBSTANCE IN A MIXTURE

TOXICS WITH LISTED CONCENTRATION

Four toxic substances have listed concentrations in the rule: hydrochloric acid — 37 percent or greater; hydrofluoric acid — 50 percent or greater; nitric acid — 80 percent or greater; and ammonia — 20 percent or greater.

- ✦ If you have these substances in solution and their concentration is less that

the listed concentration, you do not need to consider them at all.

- If you have one of these four above their listed concentration, you must determine the weight of the substance in the solution and use that to calculate the quantity present. If that quantity is greater than the threshold, the process is covered. For example, aqueous ammonia is covered at concentrations above 20 percent, with a threshold quantity of 20,000 pounds. If the solution is 25 percent ammonia, you would need 80,000 pounds of the solution to meet the threshold quantity; if the solution is 44 percent ammonia, you would need 45,455 pounds to meet the threshold quantity (quantity of mixture x percentage of regulated substance = quantity of regulated substance).

Note that in a revision to part 68, EPA changed the concentration for hydrochloric acid to 37 percent or greater (see Appendix A).

TOXICS WITHOUT A LISTED CONCENTRATION

For toxics without a listed concentration, if the concentration is less than one percent you need not consider the quantity in your threshold determination. If the concentration in a mixture is above one percent, you must calculate the weight of the regulated substance in the mixture and use that weight to determine whether a threshold quantity is present. However, if you can measure or estimate (and document) that the partial pressure of the regulated substance in the mixture is less than 10 mm Hg, you do not need to consider the mixture. Note that the partial pressure rule does not apply to toluene diisocyanate (2,4-, 2,6-, or mixed isomers) or oleum.

EPA treats toxic mixtures differently from OSHA. Under the OSHA PSM standard, the entire weight of the mixture is counted toward the threshold quantity; under part 68, only the weight of the toxic substance is counted.

FLAMMABLES

Flammable mixtures are subject to the rule only if there is a regulated substance in the mixture above one percent and the entire mixture meets the NFPA-4 criteria. If the mixture meets both of these criteria, you must use the weight of the entire mixture (not just the listed substance) to determine if you exceed the threshold quantity. The NFPA-4 definition is as follows:

"Materials that will rapidly or completely vaporize at atmospheric pressure and normal ambient temperature or that are readily dispersed in air, and that will burn readily. This degree usually includes:

FLAMMABLE GASES

Flammable cryogenic materials

Any liquid or gaseous material that is liquid while under pressure and has a flash point below 73 F (22.8 C) and a boiling point below 100 F (37.8 C) (i.e., Class 1A flammable liquids)

Materials that will spontaneously ignite when exposed to air."

You do not need to consider gasoline, when in distribution or related storage for use as fuel for internal combustion engines when you determine the applicability of the rule.

Qs and As
CONSIDERATION OF PRODUCTS

Q. We frequently store large numbers of bottles of household ammonia and bleach. Do I have to figure out the percentage of ammonia or chlorine in each bottle?

A. No. Household ammonia (as a consumer product) does not meet the concentration threshold of 20 percent. Unless the concentration of ammonia in solution is 20 percent or greater, you do not need to consider the solution in your threshold determinations. Household bleach is usually a solution of water and sodium hypochlorite. Because the latter is not a listed substance, you do not need to consider it.

Q. We store consumer products that use butane as a propellant. Each product only has a few ounces of butane. Do we need to estimate the total amount of butane in all the products?

A. As long as the butane is released from the product in normal use, you must estimate the amount of the regulated substance present. If the butane is mixed with the product, you should determine whether the product itself meets the criteria for NFPA 4. If the mixture does not meet the NFPA 4 criteria, the butane in the mixture is not counted toward the threshold.

EXCLUSIONS (§ 68.115)

The rule has a number of exclusions that allow you to ignore certain sources that contain a regulated substance when you determine whether a threshold quantity is present. Note that these same exclusions apply to EPCRA section 313; you may be familiar with them if you comply with that provision.

ARTICLES (§ 68.115(b)(4))

You do not need to include in your threshold calculations any manufactured item (as defined under 29 CFR 1910.1200(b)) that:

- ✦ Is formed to a specific shape or design during manufacture,
- ✦ Has end use functions dependent in whole or in part upon the shape or design during end use, and
- ✦ Does not release or otherwise result in exposure to a regulated substance

under normal conditions of processing and use.

USES (§ 68.115(b)(5))

You also do not need to include regulated substances in your calculation when in use for the following purposes:

- ✦ Use as a structural component of the stationary source;
- ✦ Use of products for routine janitorial maintenance;
- ✦ Use by employees of foods, drugs, cosmetics, or other personal items containing the regulated substances; and
- ✦ Use of regulated substances present in process water or non-contact cooling water as drawn from the environment or municipal sources, or use of regulated substances present in air used either as compressed air or as part of combustion.

1.6 STATIONARY SOURCE

The rule applies to "stationary sources" and each stationary source with one or more covered processes must file an RMP that includes all covered processes.

SIMPLE SOURCES

For most facilities covered by this rule, determining what constitutes a “stationary source” is simple. If you own or lease a property, your processes are contained within the property boundary, and no other companies operate on the property, then your stationary source is defined by the property boundary and covers any process within the boundaries that has more than a threshold quantity of a regulated substance. You must comply with the rule and file a single RMP for all covered processes.

MULTIPLE OPERATIONS OWNED BY A SINGLE COMPANY

If the property is owned or leased by your company, but several separate operating divisions of the company have processes at the site, the divisions’ processes may be considered a single stationary source because they are controlled by a single company. Two factors will determine if the processes are to be considered a single source: Are the processes located on one or more contiguous properties? Are all of the operations in the same industrial group?

If your company does have multiple operations that are on the same property and are in the same industrial group, each operating division may develop its prevention program separately for its covered processes, but you must file a single RMP for all covered processes at the site. You should note that this is different from the requirements for filing under CAA Title V and EPCRA section 313 (the annual toxic release inventory), where each division could file separately if your company chose to do so.

OTHER SOURCES

There are situations where two or more separate companies occupy the same site. The simplest of these cases is if multiple companies lease land at a site (e.g., an industrial park). Each company that has covered processes must file an RMP that includes information on its own covered processes at the site. You are responsible for filing an RMP for any operations that you own or operate.

Another possibility is that one company owns the land and operates there while leasing part of the site to a second company. If both companies have covered processes, each is considered a separate stationary source and must file separate RMPs even if they have contractual relationships, such as supplying product to each other or sharing emergency response functions.

If you and another company jointly own a site, but have separate operations at the site, you each must file separate RMPs for your covered processes. Ownership of the land is not relevant; a stationary source consists of covered processes located on the same property and controlled by a single owner.

JOINT VENTURES

You and another company may jointly own covered processes. In this case, the legal entity you have established to operate these processes should file the RMP. If you consider this entity a subsidiary, you should be listed as the parent company in the RMP.

MULTIPLE LOCATIONS

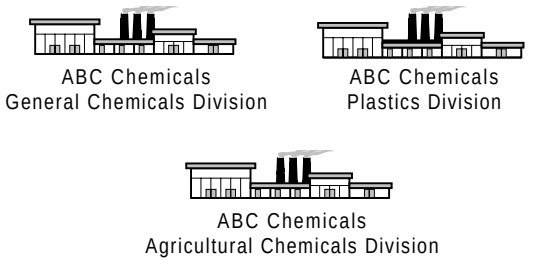
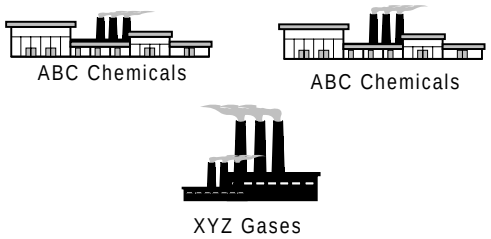
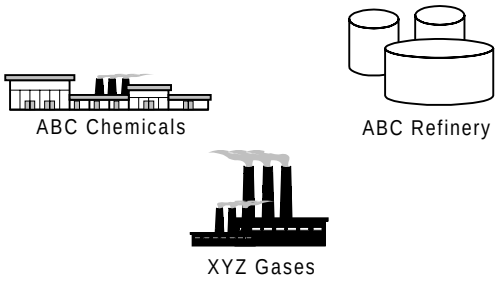
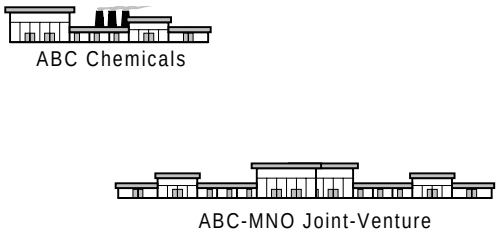
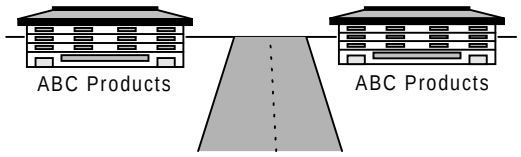
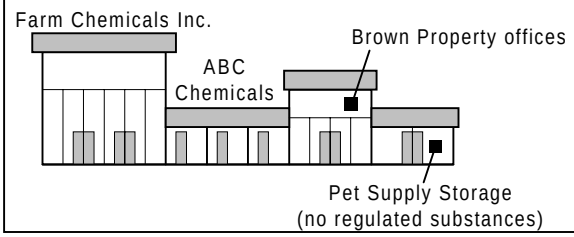
If you have multiple operations in the same area, but they are not on physically connected land, you must consider them separate stationary sources and file separate RMPs for each, even if the sites are connected by pipelines that move chemicals among the sites. Remember, the rule applies to covered processes at a single location.

Exhibit 1-3 provides examples of stationary source decisions.

1.7 WHEN MUST YOU COMPLY

Prior to June 21, 1999, if you determine that you have a covered process, you must comply with the requirements of part 68 no later than June 21, 1999. This means that if you have the process now or start it on June 1, 1999, you must be in compliance with the rule on June 21, 1999. By that time you must have developed and implemented all of the elements of the rule that apply to each of your covered processes, and you must submit an RMP to EPA in a form and manner that EPA will specify prior to that time.

EXHIBIT 1-3: STATIONARY SOURCE

Schematic Representation	Description	Interpretation
	*same* owner *same* industrial group	1 stationary source 1 RMP
	two owners	2 stationary sources 2 RMPs 1 ABC 1 XYZ
	two owners three industrial groups	3 stationary sources 1 ABC Chemicals 1 ABC Refinery 1 XYZ Gases
	two owners	2 stationary sources 2 RMPs
	*same* owner *same* industrial group contiguous property	1 stationary source 1 RMP
Building owned by Brown Properties 	two owners	2 stationary sources 2 RMPs 1 ABC Chemicals 1 Farm Chemicals

If the first time you have a covered process is after June 21, 1999, or you bring a new process on line after that date, you must comply with part 68 no later than the date on which you first have a more than a threshold quantity of a regulated substance in a process.

Q and A
STATIONARY SOURCE

Q. If I lease space in another building and store regulated substances above their thresholds there, must I file a separate RMP for them?

A. Yes, if the other building is a separate stationary source (i.e., it is not contiguous to the property where your warehouse is) you must file a separate RMP.

1.8 VARYING INVENTORIES AND PREDICTIVE FILING

As a warehouse owner, the main problem you are likely to face as you determine whether you are covered by this rule is that your inventory changes frequently. There may be periods when you have no regulated substances and other periods when you have several. Determining your applicability under this rule on a day-to-day basis may be difficult, and in some cases, impossible. One way to deal with this difficulty is to use predictive filing.

Predictive filing is an option that allows you to submit an RMP that includes regulated substances that may not be held at the facility at the time of submission. This option is intended to assist facilities such as chemical warehouses, chemical distributors, and batch processors whose operations involve highly variable types and quantities of regulated substances, but who are able to forecast their inventory with some degree of accuracy. Under § 68.190, you are required to update and re-submit your RMP no later than the date on which a new regulated substance is first present in a covered process above a threshold quantity. By using predictive filing, you will not be required to update and re-submit your RMP when you receive a new regulated substance if that substance was included in your latest RMP submission (as long as you receive it in a quantity that does not trigger a revised offsite consequence analysis as provided in § 68.36).

To use predictive filing, review your inventories over the past several years and talk with your main customers to determine, to the extent possible, the kinds of materials they are planning to store at your facility. If at some point during a year you normally receive enough vessels (drums, barrels, cylinders) to exceed a threshold quantity of a particular substance, list it on your registration in June 1999 even if you do not have it on the day you submit. If it appears, over time, that your customers will not be using your warehouse to store the substance again, you can deregister it later. In the short run, you will be safer listing too many substances, than too few, because this approach will limit the need to resubmit your RMP every time your inventory changes.

If you have flammable mixtures at your warehouse, you may want to register them as a class rather than listing each covered flammable substance. This approach will assure that you are in compliance with the registration requirements while limiting the effort you need to make to identify the specific substances.

If you use predictive filing, you must implement your Risk Management Program and prepare your RMP exactly as you would if you actually held all of the substances included in the RMP. This means that you must meet all rule requirements for each regulated substance for which you file, whether or not that substance is actually held on site at the time you submit your RMP. Depending on the substances for which you file, this may require you to perform additional worst-case and alternative-case scenarios and to implement additional prevention program elements. If you use this option, you must still update and resubmit your RMP if you receive a regulated substance that was not included in your latest RMP. This approach will not completely eliminate the need to update your RMP, but should limit the frequency of updates. If you use this option, you must still comply with the other update requirements stated in § 68.190. RMPs must be updated when you:

- ✦ Add a new regulated substance above its threshold (i.e., one not already reported in your latest predictive RMP submission);
- ✦ Add a new covered process;
- ✦ Have the program level of the process change (see Chapter 2);
- ✦ Make a major change that requires a revised PHA or hazard review (see Chapters 6 and 7); or
- ✦ Make a change that changes the distance to endpoint for a worst-case release by a factor of two or more.

Listing all the regulated substances you think you are likely to handle will mean more work initially (primarily more alternative release scenarios), but will limit the need for updates. As a rule of thumb, you will need to increase or decrease the quantity of a chemical in the single largest vessel by a factor of five or more to change the distance to an endpoint by a factor of two.

Predictive filing will work best when you simply store chemicals. If you repackage chemicals, you will need to complete prevention program information for each repackaging process. If you can predict which regulated substances you will repackage and can establish your prevention program, you can file predictively for that process. If, however, you have listed a regulated substance in your RMP based on expected storage, but you subsequently begin to repackage as well as store the chemical, you will need to update the RMP to reflect the new process.

Qs & As
COMPLIANCE DATES

Q. What happens if I bring a new covered process on line (e.g., install a second storage tank) after June 21, 1999?

A. For new covered process after the initial compliance date, you must be in compliance on the date you first have a regulated substance above the threshold quantity in that process. There is no grace period. You must develop and implement all the applicable rule elements before you start operating the new process.

Q. What if EPA lists a new substance?

A. You will have three years from the date on which the new listing is effective to come into compliance for any process that is covered because EPA has listed a new substance.

Q. I store 1-ton cylinders of chlorine. If I normally have 20 cylinders located together on site and register that quantity, do I need to update my RMP if I increase the number of cylinders to 200? How does this affect my worst-case scenario?

A. You do not necessarily need to update the RMP simply to reflect the higher quantity of chlorine. In this case, because you have not changed the size of your single largest vessel, your worst-case release scenario will not change. You will update the quantity information on your next scheduled update.

Q. I have stored 1-ton cylinders of chlorine together. Because of customer demand, I have started repackaging and have a tank with 40,000 pounds of chlorine. Do I need to update the RMP?

A. Yes, for two reasons. First, if the tank is a new process, you must update your RMP immediately; if it is part of an existing process, you must update within 6 months. Second, the 40,000-pound tank may result in the distance to endpoint for your worst-case release increasing by more than a factor of 2. If this is the case, you will need to update that change as well.